



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2406346  
**Applicant Name:** Jon Ribary  
**Address of Proposal:** 5623 – S Avon Street

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to subdivide one parcel into two (2) parcels of land. Proposed parcel sizes are approximately: A) 4,630 square feet and B) 6,764 square feet. The northerly existing single family residence on proposed Parcel A is to remain. The southerly existing single family residence on proposed Parcel B is to be removed.

The following approval is required:

**Short Subdivision** - to subdivide one existing parcel into two parcels.  
(Chapter 23.24, (23.24.046) Seattle Municipal Code).

**SEPA DETERMINATION:** ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS  
☐ DNS with conditions  
☐ DNS involving non-exempt grading or demolition or involving  
another agency with jurisdiction

**BACKGROUND DATA**

Site & Area Description

The 11,394-square-foot project site is located in a single-family residential zone with a minimum lot size of 7,200 square feet (SF 7200), which is located in the Duwamish neighborhood of south Seattle, near the southerly city limits line. The parcel is located on South Avon Street between 56<sup>th</sup> Avenue South and 59<sup>th</sup> Avenue South, with approximately sixty (60) feet of street frontage on South Avon Street.

South Avon Street is paved but has no sidewalks, curbs, gutters, or planting strips on either side of the street. There are two existing houses on the site. The northerly house is to remain, while the southerly house is proposed to be demolished. Existing vehicle access is from a driveway that connects to South Avon Street. The site slopes gently upward from northeast to southwest. Surrounding properties and blocks are also mostly zoned SF 7200, with some SF 5000 (Single-Family Residential, with a minimum lot size of 5000 square feet) zoning. Development in the area consists of mostly single-family houses, which vary in size, height, age and architectural style, and are built on a variety of lot sizes, consistent with the zoning designations. Rainier View Elementary School is located on a site about a block to the southwest of the subject property.

### Proposal

Pursuant to SMC 23.24.046, multiple single-family dwelling units on a single-family lot may be subdivided when the provisions of the chapter are met. The proposal is to subdivide one existing parcel of land into two (2) parcels. Proposed lot areas are indicated in the summary above. Proposed Parcels A and B will have pedestrian and vehicle access to South Avon Street. The northerly house is to remain, while the southerly house is proposed to be demolished. Vehicle access is also to remain off of South Avon Street. The existing curbcut and driveway will remain to provide vehicle access to parking pads on both Parcels A and B.

The subject of this analysis and decision is only the proposed division of land.

### Public Comment

The comment period for this proposal ended on October 6, 2004. No comment letters were received.

### **ANALYSIS - SHORT SUBDIVISION**

Pursuant to SMC 23.24.040, no short plat shall be approved unless all of the following facts and conditions are found to exist:

1. *Conformance to the applicable Land Use Code provisions;*
2. *Adequacy of access for vehicles, utilities, and fire protection, as provided in Section 23.53.005;*
3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*
4. *Whether the public use and interests are served by permitting the proposed division of land;*
5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions, in environmentally critical areas;*
6. *Is designed to maximize the retention of existing trees;*
7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the*

*construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

8. *Conformance to the provisions of Section 23.24.046, Multiple single-family dwelling units on a single-family lot, when the short subdivision is for the purpose of creating two (2) or more lots from one (1) lot with more than one (1) existing single-family dwelling unit.*

Based on information provided by the applicant, referral comments from the Department of Planning and Development, Drainage Section, the Fire Department, Seattle Public Utilities (City Light and the Water Department), and review by the Land Use Planner, the following findings are made with respect to the above-cited criteria:

1. *Conformance to the applicable Land Use Code provisions;*

The subject property is zoned for single-family residential with a minimum lot size of 7,200 square feet. The allowed use in a single family zone is generally one dwelling unit per lot, with exceptions provided for accessory dwelling units meeting the provisions of SMC 23.44.041 and multiple single-family dwelling units on a single-family lot meeting the provisions of SMC 23.24.046. Maximum lot coverage is 35% or 1,750 sq ft whichever is greater or as modified by SMC 23.24.046. Front yard setbacks are an average of the neighboring adjacent lots, or twenty (20) feet, whichever is less. In this case, the front yards for both structures are existing. The minimum side yard setbacks are five (5) feet, except as modified by 23.24.046-B5. Minimum rear yard setbacks are twenty-five (25) feet or if lot depth is less than one-hundred twenty five feet (125'), 20% of lot depth, or as modified by 23.24.046-B5. The principal structures associated with this subdivision will have some degree of non-conformity relevant to development standards for minimum lot area and yards and as a result will be subject to SMC 23.42.112 – Nonconformity to development standards. Table 1 on page 7 of this document outlines the extent of the non-conformities to yard standards for both proposed parcels A and B of this subdivision.

2. *Adequacy of access for vehicles, utilities, and fire protection, as provided in Section 23.53.005;*

Proposed Parcels A and B have pedestrian and vehicular access to South Avon Street via a shared driveway and access easement. The number of residences served by this driveway and easement will not change. The Seattle Fire Department has no objection to the proposed short plat. All private utilities are available in this area. Seattle City Light provides electrical service to the subject property and has indicated that an easement is not required.

3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*

This area is served with domestic water, sanitary sewer, and stormdrain facilities by the City of Seattle. Availability of service is assured subject to standard conditions of utility extension. The

Short Plat application has been reviewed by Seattle Public Utilities and a Water Availability Certificate was issued on September 15, 2004 (WAC ID No. 2004-1390).

It was determined that there are no issues regarding sanitary sewage discharge from this project. The existing drainage infrastructure is approved, and stormwater control is also approved.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed short subdivision will meet all the applicable Land Use Code provisions except the minimum lot area standards and certain yard standards further analyzed below. The proposed development has adequate access for vehicles, utilities and fire protection, and has adequate drainage, water supply and sanitary sewage disposal. The proposal will meet all applicable criteria for approval of a short plat upon completion of the conditions in this analysis and decision. As a result, the public use and interest are served.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions, in environmentally critical areas;*

This site is not located in any environmentally critical area as defined in SMC 25.09.240. There are no environmentally critical areas mapped or otherwise observed on the site.

6. *Is designed to maximize the retention of existing trees;*

According to the applicant's survey, there are eight trees on the subject property with diameters of between 11 and 38 inches. At the time of this decision, no related building permit has been applied for, although demolition of the existing southerly house is proposed and replacement of that house with a new residence is on proposed Parcel B is likely. Future construction, if any, will be subject to the provisions of SMC Sections 23.44.008, 25.11.050 and 25.11.060, which set forth tree planting and exceptional tree protection requirements on single-family lots.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

This short subdivision is not a unit subdivision. Thus, this section is not applicable to this short plat proposal.

8. *Conformance to the provisions of Section 23.24.046, multiple single-family dwelling units on a single-family lot, when the short subdivision is for the purpose of creating two (2) or more lots from one (1) lot with more than one (1) existing single-family dwelling unit.*

SMC 23.24.046

Subsection B of SMC 23.24.046 outlines the requirements for the subdivision of a lot in a single-family zone containing more than one (1) existing single-family dwelling as detailed below.

1. *Each existing single-family dwelling unit was legally established by permit or is eligible to be established as a nonconforming development in accordance with Section 23.42.102, Establishing nonconforming status;*

Original building permits for the structures addressed as 5623 and 5621 South Avon Street have not been discovered in DPD records. Permission was granted to construct an addition to the northerly residence under Permit No. 353023, issued August 1, 1942. According to records of the King County Assessor's Office, the northerly house was originally constructed in 1914, and the smaller southerly house was built in 1939. Reverse telephone directory listings from 1941 and 1955 show occupancy of both 5623 and South Avon Street. Based upon the reverse telephone directory listings and the King County Assessor's records, DPD accepted Project No. 2403889 to establish use for the record of two dwelling units on one single family lot. The information supporting the existence of the two structures prior to July 24, 1957, and hence their eligibility to be established for the record per SMC Section 23.42.102, is found in the DPD file for Project No. 2403889. Permit No. 744645, issued August 13, 2004, and has been approved to establish the southerly house for the record prior to July 24, 1957. Accordingly, the structures addressed as 5623 and 5621 South Avon Street have been determined to be a legally nonconforming development per SMC Section 23.42.102.

2. *Each existing single-family dwelling unit was constructed prior to February 20, 1982;*

As explained above, there is substantial evidence to show that the single-family structures addressed as 5623 and 5621 South Avon Street were built prior to 1957, and Permit No. 744645 has been issued to establish the southerly house as a dwelling unit for the record per 23.42.102. Therefore the requirements of this section are met as both single-family residences were constructed prior to 1982. The relevant information in support of this conclusion is located in the DPD file for Project No. 2403889.

3. *Each resulting lot has one (1), but no more than one (1), existing single-family dwelling unit;*

Each resulting lot will have one (1) single family residence located on it as evidenced by the approved plat configuration showing separate structures on each proposed lot and coupled with the permits detailed above that establish each structure as a residence or dwelling. Therefore the provisions of this section are met.

4. *Parking is provided in accordance with Section 23.44.016, Parking location and access, unless the Director determines that at least one (1) of the following conditions is present:*

Parking is provided in accordance with SMC 23.44.016, so the provisions of this section are met.

5. *Each resulting lot conforms to all other development standards of the zone unless the Director determines that the short subdivision cannot be approved if such standards are strictly applied and modification or waiver of some or all of such standards would further the public interest. If the Director makes such determination, then the Director may waive or modify development standards, provided that:*
  - a. *Each existing single-family dwelling unit shall be set back at least three (3) feet from each common lot line in the short subdivision; and*
  - b. *No resulting lot shall be smaller than one thousand eight hundred (1,800) square feet.*

The proposed subdivision will be in concurrence with the above criteria (23.24.046-B5 (a) (b)). The southerly structure, located on proposed Parcel B, will be a minimum of three feet at the closest point to the proposed common lot line. The smallest lot size of the proposed parcels is 4,630 square feet (Parcel A). As a result, the proposed lots meet the criteria for waiver or modification of the development standards. DPD recognizes the two existing single-family dwellings as meeting the provisions of SMC 23.24.046-B.

Below is a table that summarizes the modification or waivers to the yard standards that are required to approve the short plat. All yards are conforming for the undivided property as a whole. The side yard for Parcel B will be nonconforming at three feet minimum while the existing southerly house remains in place. (However, the applicant intends to demolish the structure and Parcel B will have sufficient area for a conforming new residence to be constructed.) The rear yard for the northerly house on proposed Parcel A, will become slightly nonconforming (about six inches less than required, or 18 feet instead of 18.5 feet). Accordingly, slight yard nonconformity will occur as a result of the proposed short subdivision, but the actual location and appearance of the houses will not change in any way. The rear yard nonconformity on Parcel A is occurring because of the need to satisfy the separate requirement of maintaining at least a three-foot setback for the southerly house from the proposed common lot line between Parcels A and B, assuming that the southerly house remains and is not demolished. Despite the slight yard nonconformities, the public interest is served by establishing each house on its own lot in conformity to the basic single family development standard of one house per lot.

This short subdivision was submitted on the basis of SMC 23.24.046, which allows for a lot in a single-family zone containing more than one (1) existing single-family dwelling units to be divided in accordance with SMC 23.24.046-B, as long as each of the required conditions are satisfied. The analysis of the required criteria and or modification is examined in the relevant criteria for short plat approval above.

<b>Analysis of Required Yards</b>				
	<b>Front Yard</b>	<b>Side Yard (east)</b>	<b>Side Yard (west)</b>	<b>Rear Yard</b>
<b><i>Proposed Parcel A</i></b> <b><i>5623 S Avon</i></b> <b><i>Street</i></b>	Conforming at 20'	Conforming at 5'	Conforming at 5'	Nonconforming at 18'
	<b>Front Yard</b>	<b>Side Yard (east)</b>	<b>Side Yard (north and west)</b>	<b>Rear Yard</b>
<b><i>Proposed Parcel B</i></b> <b><i>5621 S Avon</i></b> <b><i>Street</i></b>	Conforming at 20'	Conforming at 5'	Nonconforming at 3' (if existing house remains)	Conforming at 25'

**Table 1****DECISION - SHORT SUBDIVISION**

The proposed short plat is **CONDITIONALLY GRANTED**.

**CONDITIONS - SHORT SUBDIVISION****Prior to Recording**

1. Have final recording documents prepared by or under the supervision of a Washington state licensed land surveyor. Each lot, parcel, or tract created by the short subdivision shall be surveyed in accordance with appropriate State statutes. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown. Lot areas shall be shown on the plat. All existing structures, principal and accessory, shall be shown on the face of the plat, and their distances to the proposed property lines dimensioned.
2. Submit the final recording forms for approval and any necessary fees.
3. Change "parking area" on the plat so that none of this area is shown within any part of Parcel A or Parcel B that is within 20 feet of the street lot lines. Remove all references to "unit lot" from the plat.

**After Recording and Prior to Issuance of a Building Permit**

4. Attach a copy of the recorded subdivision to all future building permit application plans.

Signature: (signature on file) Date: December 2, 2004

William K. Mills, Land Use Planner  
Department of Planning and Development (DPD)

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